

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

**MARK CARMAN, individual and
on Behalf of All Others Similarly
Situated**

Plaintiff(s),

v.

Civil Action No. 2:22-cv-00313

**PORTSMOUTH REDEVELOPMENT
AND HOUSING AUTHORITY,**

Defendant.

**DEFENDANT’S NOTICE OF TIMELY FILING OF ITS REPLY BRIEF IN SUPPORT
OF ITS MOTION FOR PARTIAL SUMMARY JUDGMENT OR IN THE
ALTERNATIVE MOTION TO DEEM ITS REPLY BRIEF IN SUPPORT OF ITS
MOTION FOR PARTIAL SUMMARY JUDGMENT AS TIMELY FILED**

Defendant Portsmouth Redevelopment and Housing Authority (“Defendant” or “PRHA”), by counsel, and pursuant to Local Rule 7 and Rule 16 of the Federal Rules of Civil Procedure, states as follows in response to the Clerk’s Notice of Correction to ECF No. 29, Defendant’s Reply Brief in Support of its Motion for Partial Summary Judgment (“Reply”):

1. This Court issued a Rule 16(b) scheduling order on or about December 6, 2022. Pursuant to section nine of the Court’s scheduling order, summary judgment motions were to be filed no later than June 13, 2023, responses to summary judgment motions were to be filed no later than June 27, 2023, and replies were to be due no later than July 5, 2023. See Rule 16(b) Scheduling Order (ECF No. 14).

2. Defendant filed its Reply at approximately 9:32 p.m. on July 5, 2023. See Reply (ECF No. 29). As such, Defendant’s Reply was timely pursuant to the Court’s scheduling order.

3. In the alternative, Defendant moves for its Reply to be deemed as timely filed. Pursuant to Rule 6 of the Federal Rules of Civil Procedure, the Court may, for good cause, extend the time by which a filing must be made due to a party's excusable negligence. See Fed. R. Civ. P. 6(b)(1)(B). To the extent that Defendant failed to timely file its Reply, its failure to do so was excusable negligence due to Defendant's understanding of and its reliance upon the deadlines it believed were contained within this Court's Rule 16(b) scheduling order. See Rule 16(b) Scheduling Order (ECF No. 14).

WHEREFORE, Defendant requests either that the Clerk of this Court take notice that the Defendant's Reply was timely filed or, in the alternative, request that the Court deem Defendant's Reply as timely filed and/or extend the time for such reply to be filed pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, and for any further relief as the Court may deem appropriate under the circumstances.

PORTSMOUTH REDEVELOPMENT
AND HOUSING AUTHORITY

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CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of July, 2023, I electronically filed the foregoing with the Clerk of Court via the CM/ECF System, which will send electronic notification to the following:

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